

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions and listings of claims in the application:

Listing of claims:

1. (currently amended) An isolated nucleic acid no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1 and that hybridizes to a polynucleotide having a sequence that is the complement of SEQ ID NO: 3 under conditions equivalent to 5x Denhardt's solution, 6 x SSC, 0.5% to 0.1% SDS, at a temperature from 50 to 65 °C, and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid.

2-3. (canceled)

4. (previously presented) The nucleic acid according to claim 1, consisting of a polynucleotide having the sequence of SEQ ID NO: 1.

5. (previously presented) A nucleic acid comprising a plurality of nucleic acids according to claim 1 or 4 that are ligated.

6. (currently amended) A recombinant vector comprising at least one nucleic acid ~~of claim 1~~ no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1 and that hybridizes to a polynucleotide having a sequence that is the complement of SEQ ID NO: 3 under conditions equivalent to 5x Denhardt's solution, 6 x SSC, 0.5% to 0.1% SDS, at a temperature from 50 to 65 °C, and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid

and a structural gene located downstream of said nucleic acid whose expression in a cell is promoted by said nucleic acid.

7-8. (canceled)

9. (previously presented) The recombinant vector according to claim 6, wherein said nucleic acid consists of a polynucleotide having the sequence of SEQ ID NO: 1.

10. (previously presented) The recombinant vector according to claim 6 or 9, wherein said nucleic acid is inserted in an intron sequence located upstream of said structural gene.

11. (previously presented) The recombinant vector according to claim 10, wherein said intron sequence comprises the nucleotide sequence shown in SEQ ID NO: 3.

12. (previously presented) The recombinant vector according to claim 10, wherein said intron sequence comprises the nucleotide sequence shown in SEQ ID NO: 2.

13. (currently amended) A method for promoting expression of a structural gene, comprising inserting, at a location upstream of said structural gene, a nucleic acid no more than 120 nucleotides in length comprising the nucleotide sequence shown in SEQ ID NO: 1 that hybridizes to a polynucleotide having a sequence that is the complement of SEQ ID NO: 3 under conditions equivalent to 5X Denhardt's solution, 6 X SSC, 0.5% to 0.1% SDS, at a temperature from 50 to 65 °C, and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid,

thereby promoting expression of the structural gene in a cell.

14-15. (canceled)

16. (previously presented) The method according to claim 13, wherein said nucleic acid consists of a polynucleotide having the nucleotide sequence shown in SEQ ID NO: 1.

17. (previously presented) The method according to claim 13 or 16, wherein said nucleic acid is inserted in an intron sequence located upstream of said structural gene.

18. (previously presented) The method according to claim 17, wherein said intron sequence comprises the nucleotide sequence shown in SEQ ID NO: 3.

19-20. (canceled)

21. (previously presented) The method according to claim 13, in which a plurality of said nucleic acid fragments is inserted upstream of said structural gene.

22. (canceled)

23. (previously presented) The method according to claim 16, in which a plurality of said nucleic acid fragments is inserted upstream of said structural gene.

24. (previously presented) The method according to claim 17, in which a plurality of said nucleic acid fragments is inserted upstream of said structural gene.

25. (previously presented) The method according to claim 18, in which a plurality of said nucleic acid fragments is inserted upstream of said structural gene.

26. (currently amended) A plant, or progeny thereof, comprising ~~the~~ a recombinant vector of claim 6 comprising a nucleic acid no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1 that hybridizes to a polynucleotide having a sequence that is the complement of SEQ ID NO: 3 under conditions equivalent to 5x Denhardt's solution, 6 x SSC, 0.5% to 0.1% SDS, at a temperature from 50 to 65 °C, and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid

and a structural gene located downstream of said nucleic acid whose expression in a cell is promoted by said nucleic acid.

27. (currently amended) A plant, or progeny thereof, comprising ~~at least one nucleic acid fragment of claim 1~~

polynucleotide no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1 that hybridizes to a polynucleotide having a sequence that is the complement of SEQ ID NO: 3 under conditions equivalent to 5x Denhardt's solution, 6 x SSC, 0.5% to 0.1% SDS, at a temperature from 50 to 65 °C, and which has activity to promote expression of a structural gene located downstream of said nucleic acid,

wherein said at least one polynucleotide is inserted into
an intron of a structural gene.

28. (previously presented) The method of claim 13, wherein said structural gene is in a plant.

29. (canceled)

30. (previously presented) The method of claim 16, wherein said structural gene is in a plant.

31. (previously presented) The method of claim 17, wherein said structural gene is in a plant.

32. (previously presented) The method of claim 18, wherein said structural gene is in a plant.

33. (currently amended) An isolated nucleic acid no more than 120 nucleotides in length and ~~comprising the nucleotide sequence shown in SEQ ID NO: 1, that is at least 70% identical in sequence to SEQ ID NO: 3~~ comprising a polynucleotide consisting of nucleotides 2-65 of SEQ ID NO: 3 and further comprising a second polynucleotide at the 3' end having a sequence that is 70% identical to nucleotides 66-173 of SEQ ID NO: 3 and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid.

34. (currently amended) The isolated nucleic acid of claim 33 ~~that~~ wherein the second polynucleotide has a sequence that is at least 85% identical in sequence to SEQ ID NO: 3.

35. (currently amended) The isolated nucleic acid of claim 33 ~~that~~ wherein the second polynucleotide has a sequence that is at least 95% identical in sequence to SEQ ID NO: 3.

36. (previously presented) An isolated nucleic acid that comprises a plurality of polynucleotides having the sequence of SEQ ID NO: 1.

37. (currently amended) A recombinant vector comprising at least one nucleic acid ~~of claim~~ no more than 120 nucleotides in

length and comprising a polynucleotide consisting of nucleotides 2-65 of SEQ ID NO: 3 and further comprising a second polynucleotide at the 3' end having a sequence that is at least 70% identical to nucleotides 66-173 of SEQ ID NO: 3 and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid

and a structural gene located downstream of said at least one nucleic acid whose expression in a cell is promoted by said nucleic acid.

38. (currently amended) ~~A~~ The recombinant vector comprising at least one nucleic acid of claim 36 37, wherein the second polynucleotide has a sequence that is at least 85% identical to nucleotides 66-173 of SEQ ID NO: 3

~~and a structural gene located downstream of said nucleic acid whose expression is promoted by said nucleic acid.~~

39. - 40. (canceled)

41. (currently amended) A method for promoting expression of a structural gene, comprising inserting, at a location upstream of said structural gene, an isolated nucleic acid no more than 120 nucleotides in length and ~~comprising the nucleotide sequence shown in SEQ ID NO: 1, that is at least 70%~~

~~identical in sequence to SEQ ID NO: 3~~ comprising a polynucleotide consisting of nucleotides 2-65 of SEQ ID NO: 3 and further comprising a second polynucleotide at the 3' end having a sequence that is at least 70% identical to nucleotides 66-173 of SEQ ID NO: 3 and which has activity to promote expression in a cell of a structural gene located downstream from said nucleic acid,
thereby promoting expression of the structural gene in a cell.

42. (new) A plant, or progeny thereof, comprising a recombinant vector comprising a nucleic acid no more than 120 nucleotides in length and comprising a polynucleotide consisting of nucleotides 2-65 of SEQ ID NO: 3 and further comprising a second polynucleotide at the 3' end having a sequence that is at least 70% identical to nucleotides 66-173 of SEQ ID NO: 3 and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid,

and a structural gene located downstream of said at least one nucleic acid whose expression is promoted in a cell by said nucleic acid.

43. (new) The plant, or progeny thereof, of claim 42 in which the second polynucleotide has a sequence that is at least 85% identical to nucleotides 66-173 of SEQ ID NO: 3.

44. (new) A plant, or progeny thereof, comprising at least one nucleic acid no more than 120 nucleotides in length and comprising a polynucleotide consisting of nucleotides 2-65 of SEQ ID NO: 3 and further comprising a second polynucleotide at the 3' end having a sequence that is at least 70% identical to nucleotides 66-173 of SEQ ID NO: 3 and which has activity to promote expression in a cell of a structural gene located downstream of said nucleic acid,

wherein said nucleic acid is inserted into an intron of a structural gene.

45. (new) The plant, or progeny thereof, of claim 44, in which the second polynucleotide has a sequence that is at least 85% identical to nucleotides 66-173 of SEQ ID NO: 3.

46. (new) The plant of claim 44, in which the second polynucleotide has a sequence that is at least 95% identical to nucleotides 66-173 of SEQ ID NO: 3.